



ORDINANCE NO. 23-02

AN ORDINANCE TO ADD A NEW CHAPTER 95 TO THE TOWN OF MILLVILLE CODE ENTITLED "LOITERING, SLEEPING IN PUBLIC, TRESPASSING"

WHEREAS, the Town Council of Millville has the power to adopt ordinances in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants, and affairs, including to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, the Town Council may from time to time amend, supplement, or change the regulations and restrictions established by ordinances, including those codified in the Town of Millville Code;

NOW, BE IT THEREFORE ORDAINED, by the Town Council of the Town of Millville, Sussex County, Delaware, having duly met and a majority thereof concurring herein, that the following Chapter 95 hereby be adopted and incorporated into the Town of Millville Code, entitled "Loitering, Sleeping in Public, Trespassing":

Chapter 95. Loitering, Sleeping in Public, Trespassing

§ 95-1. Loitering.

- A. No person shall loiter or lounge on any street, street corner, pavement, sidewalk, boardwalk, street crossing, or parking lot in the Town in a manner that obstructs or prevents the free flow of pedestrian or vehicular traffic.
- B. No person shall loiter on any street or in a place open to the public for the purpose of soliciting another person for an illegal purpose or for the purpose of engaging or soliciting another person to engage in sexual intercourse, sexual penetration, sexual contact, or sexual harassment, sexual extortion, or indecent exposure.

C. Loitering includes when:

- (1) The person fails or refuses to move on when lawfully ordered to do so by the Code & Building Official, other Town code enforcement officer, the Delaware State Police, or other police officer; or
- (2) The person remains or wanders about in a public place for the purpose of begging; or
- (3) The person stands or sits idly, whether or not the person is in a vehicle, or remains in or around a school property, while not having reason or relationship involving custody of or responsibility for a pupil or any other specific or legitimate reason for being there; or
- (4) The person congregates with others or prowls in a public place at a time or any manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

D. Unless flight of the accused or other circumstances make it impractical, the Town code enforcement officer or police officer shall, prior to any arrest for an offense under this Section, afford the accused an opportunity to explain the person's presence and conduct.

§ 95-2. Sleeping in public.

- A. Sleeping in motor vehicles. It shall be unlawful for any person to sleep at any time in any motor vehicle of any description parked on any highway, road, public park, parking lot, picnic grounds, or on any other public or semipublic area in the Town.
- B. Camping or sleeping out of doors. It shall be unlawful for any person to camp or sleep at any time on any highway, road, public park, parking lot, picnic ground, or on any other public or semipublic area in the Town, or upon the property of any other person without the consent of the property owner.
- C. It shall be an affirmative defense under this Section for any person, without the purpose of habitation, to temporarily occupy and use a vehicle for emergency reasons such as escape from or avoidance of an abusive person(s), avoidance of driving a vehicle while under the influence of alcohol or drugs, even though the person may sleep during the period of that use. For purposes of this section, "temporarily occupy" means a duration of 12 hours or less.

§ 95-3. Trespassing.

No person shall trespass upon the ways, premises, or lands of another with the Town or who cause another to commit a trespass upon the ways, premises, or lands of another.

§ 95-4. Definitions.

As used in this Chapter, the following terms have the following meanings:

CAMP OR CAMPING

At any time, to establish or maintain outdoors or in any structure not intended for human habitation, a temporary or permanent place for cooking or sleeping, by setting up any bedding, including, but not limited to, a sleeping bag, blanket, mattress, tent, hammock or other sleeping equipment or by setting up any cooking equipment with the intent to use that location for habitation.

SLEEPING

Includes, but is not limited to, making preparation to sleep, including the lying down of bedding for the purposes of sleeping.

TREPASS

Any entry upon the ways, premises, or land of another without legal authority or justification.

§ 95-5. Violations and penalties.

Any person violating any provision of this Chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II, General Penalty.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY, DELAWARE, ON THIS 13th DAY OF DECEMBER 2022.

SEAL:

MAYOR

ATTESTED:

SECRETARY

SYNOPSIS

This ordinance seeks to ensure that the streets and public property within the Town should be unobstructed, readily accessible, and available to residents and the public at large. In so doing, the ordinance prohibits loitering in a manner that obstructs or prevents the free flow of pedestrian or vehicular traffic or for the purpose of soliciting another person for an illegal or sexual purpose.

The ordinance also prohibits sleeping in a vehicle or camping on any highway, road, public park, parking lot, picnic ground, or on any other public or semipublic area in the Town, or upon the property of any other person without the consent of the property

owner. There is an exception for temporarily occupying a vehicle for avoidance of an abusive person or driving a vehicle while under the influence of alcohol or drugs.

Finally, the ordinance prohibits trespassing.